

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:12-CR-68-D

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MARCUS TERRELL BURNEY,)
)
Defendant.)

ORDER

On January 12, 2015, defendant, through counsel, filed an unopposed motion to correct and clarify the transcript of the October 1, 2014 resentencing hearing [D.E. 126]. The court has reviewed the resentencing transcript [D.E. 123] and orders the following corrections:

Page 3, line 14: “file” should be “filed”

Page 3, line 15: “condition so” should be “conviction,”

Page 3, line 16: “2 that the jury” should be “2. The jury”

Page 3, lines 19–23: “cocaine and quantity of hydrocodone. In violation of 21 U.S.C, Section 841(a) and 851 of the prior sentencing we had that revised a presentence report we had had, a U.S. probation” should be “cocaine, and quantity of hydrocodone in violation of 21 U.S.C. Sections 841(a) and 851. At the prior sentencing, we had a revised presentence report, and the U.S. probation”

Page 4, line 6: “hearing” should be “hearing,”

Page 4, line 8: “the United States” should be “United States”

Page 4, line 9: “Lawing 703 F.3D. 229 and 241 portion of the 2012 and” should be “Lawing, 703 F.3d 229 and 241, Fourth Circuit 2012, and”

Page 4, line 10: “in there” should be “in there,”

Page 4, line 11: “the Supreme Court of the United States and the United” should be “the Supreme Court of the United States, and United”

Page 4, lines 13–15: “Circuit of 2009. If that objection is preserved Federal rule in light of the finding precedent from the Circuit.” should be “Circuit 2009. That objection is preserved but overruled in light of the binding precedent from the Circuit.”

Page 5, line 15: “Hers was 3.2 grams.” should be “Her weight was 3.2 grams.”

Page 6, line 5: “rationality” should be “rationale”

Page 7, lines 5–6: “But what about to the argument about with the conspiracy count out in terms” should be “But what about the argument, with the conspiracy count out,”

Page 7, line 7: “motion” should be “notion”

Page 7, line 12: This line (“The notion that we have being”) should be completely deleted.

Page 7, lines 15–16: “question is does the pool given the timing - - ” should be “question is about Poole, given the timing,”

Page 7, line 18: “testimony” should be “testimony,”

Page 9, line 7: “I object to that” should be “I reject that”

Page 9, line 15: “offensive” should be “offense of”

Page 9, line 16: “crack cocaine” should be “crack cocaine,”

Page 9, line 21: “to conduct” should be “conduct”

Page 10, line 5: “countless” should be “relentless”

Page 10, line 13: “argument of” should be “argument as to”

Page 10, lines 14–15: “one is not” should be “one: Poole is not” and “believe we need to object” should be “agree with”

Page 11, line 2: “April 7th.” should be “events of April 7th.”

Page 11, line 12: “here I understand.” should be “here; I understand.”

Page 11, line 23: “broader” should be “broad”

Page 12, line 3: “Court” should be “court”

Page 12, line 5: "Court" should be "Circuit"

Page 12, line 11: "then - -" should be "then," and delete the dash

Page 12, line 13: "cocaine base." should be "cocaine base,"

Page 12, line 17: "Burney" should be "Burney,"

Page 12, line 18: "contributed" should be "attributed"

Page 13, line 5: "11.7 it's either" should be "11.7, either"

Page 13, line 12: "And the fourth the objection in my ruing" should be "And the fourth objection is my ruling"

Page 13, line 13: "Poole I will also take the" should be "Poole. I will also take those"

Page 13, lines 14–15: "2009 but I don't -- I haven't found that it's not relevant" should be "2009, but I haven't found that it's relevant"

Page 13, line 16: "three" should be "III"

Page 13, lines 23–24: "24, 3 yields a 63, a 78" should be "24 and III yields a 63 to 78"

Page 14, line 1: "3" should be "III"

Page 14, lines 16–18: "4A1.3" should be "4A1.3," and "for liable information it takes" should be "if reliable information exists that" and "offense criminal history" should be "defendant's criminal history" and "and represents" should be "underrepresents"

Page 14, line 23: "of it you talked about. There's a myriad" should be "of 4A1.3 talk about that there are myriad"

Page 14, line 25: "repeated treatment" should be "repeated lenient treatment"

Page 15, line 23: "40 where the age is out," should be "40 is where the age out is;"

Page 16, line 1: "of 3" should be "of III"

Page 16, line 24: "gotten a" should be "gotten to"

Page 17, line 1: "mentioned, that the" should be "mentioned, the"

Page 17, line 2: "will" should be "may"

Page 17, line 3: “substantiates” should be “substantially”

Page 17, line 4: “and represents” should be “underrepresenting”

Page 17, line 6: “Another” should be “A”

Page 18, line 1: “conduct - -” should be “conduct,” and delete the dash

Page 18, line 3: “authorization” should be “authorization,”

Page 18, line 4: “conduct” should be “conduct,”

Page 18, line 8: “that the 63, 78 range” should be “that, as to the 63 to 78 range, it”

Page 18, line 10: “that - - felt” should be “of that; we felt”

Page 18, line 12: “the 63, 78 range his conduct” should be “the 63 to 78 range, his conduct”

Page 18, line 16: “63, 78” should be “63 to 78”

Page 18, line 17: “on” should be “with”

Page 18, line 18: “motion - - not the government as such but just because” should be “motion and” (“- -not the government as such but just because” should be deleted)

Page 18, line 19: “32(a)” should be “32(h)”

Page 19, lines 3–6: “that statute reviewed in the guideline 4A1.3(a) (1) discounts with what I actually put that both are present, the likelihood the defendant may commit other crimes.” should be “that the defendant will commit other crimes.”

Page 19, line 9: “outlined associated with really the” should be “outlined. Associated with the reality that”

Page 19, line 10: “had gotten - - ” should be “has gotten leniency and”

Page 19, line 13: “get Rule C as” should be “get leniency as”

Page 19, line 14: “ten and even 11” should be “ten, and even 11”

Page 19, line 16: “that somebody” should be “that the defendant”

Page 19, line 20: “4A1.3, paragraph” should be “4A1.3. Paragraph”

Page 20, line 4: “three to four. So 24 and 40” should be “III to IV. So 24 and IV”

Page 20, line 6: "that" should be "that,"

Page 20, line 8: "also - - those" should be "also realize those"

Page 20, line 10: "statistics who" should be "statistics, who"

Page 20, line 14: "on" should be "on the"

Page 21, line 1: "shock" should be "sanctions"

Page 22, line 15: "We were" should be "We are"

Page 22, lines 22–23: "made. There appears to be some of memos." should be "made, including in the memo."

Page 23, line 16: "most respectful" should be "most effective"

Page 24, line 1: "characteristics as reflected in the report" should be "characteristics, as reflected in the report,"

Page 24, line 2: "33 - - I" should be "33. I"

Page 24, line 12: "were - - sentences, probation." should be "were probation sentences."

Page 24, line 18: "in and" should be "in custody and"

Page 24, line 19: "account" should be "count of"

Page 24, line 20: "convictions" should be "conviction"

Page 24, line 25: "here still" should be "here and still"

Page 25, line 2: "grain of salt and in the sense that" should be "grain of salt. In the sense that,"

Page 25, line 3: "I don't - - I think - -" should be "I think,"

Page 25, line 7: "places" should be "places,"

Page 25, line 11: "That people" should be "Some people"

Page 25, line 13: "is now" should be "is now," and " 60" should be "60," and "back" should be "back,"

Page 25, line 14: "life" should be "life,"

Page 25, line 16: "So I" should be "So you"

Page 25, line 19: "old" should be "old,"

Page 26, line 8: "to - - " should be "to be yours."

Page 26, line 9: "you're going to get" should be "You're going to get"

Page 26, line 18: "know, somebody" should be "know, could harm somebody"

Page 27, line 1: "general deter," should be "generally deter, and"

Page 27, lines 8-9: "out with the charged release you'll" should be "out, you'll"

Page 27, line 15: "following condition" should be "following additional condition"

Page 27, line 16: "To" should be "You'll"

Page 27, line 20: "party pays \$200 obviously she" should be "paid \$200, obviously he"

Page 27, line 21: "conviction count" should be "conviction on the count"

Page 27, line 24: "children. I would impose" should be "children. [NEW PARAGRAPH] I imposed"

Page 28, line 1: "factors that you announced" should be "factors. I also announce,"

Page 28, line 2: "to the U.S. v. I'm assuming that's 758 3D." should be "to U.S. v. Gomez-Jimenez, 750 F.3d "

Page 28, line 3: "Gargrove" should be "Hargrove"

Page 28, line 4: "2012 and" should be "2012; and"

Page 28, line 5: "2011" should be "2011,"

Page 28, lines 6-7: "and alternative varying sentence. If I" should be "as an alternative variant sentence if I"

Page 28, lines 8-9: "feloniously - - why don't I do this. I have fully argued and considered and" should be "erroneously departed. I have fully considered and"

Page 28, line 11: "recommend - - " should be "recommend a prison;"

In sum, defendant's motion to correct and clarify the transcript [D.E. 126] is GRANTED.

The court reporter shall prepare and file a corrected transcript. The clerk shall serve this order on the court reporter.

SO ORDERED. This 2 day of April 2015.


JAMES C. DEVER III
Chief United States District Judge